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BEFORE THE ARIZONA CORPORATION COMMISSION

DOUG LITTLE
Chairman
BOB STUMP
Commissioner
BOB BURNS
Commissioner
TOM FORESE
Commissioner
ANDY TOBIN
Commissioner

IN THE MATTER OF THE NOTICE OF
INTENT OF SOUTHWEST GAS
CORPORATION TO IMPLEMENT A PLAN
OF REORGANIZATION THAT WILL
RESULT IN A HOLDING COMPANY
STRUCTURE

DOCKET NO. G-01551A-15-0351

DECISION NO. 75562

ORDER

Arizona Corporation Commission

DOCKETED

MAY 16 2016

DOCKETED BY

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Open Meeting
May 3, 2016
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. Southwest Gas Corporation ("Southwest" or "Company") is engaged in providing natural gas service within portions of Arizona, pursuant to authority granted by the Arizona Corporation Commission.

2. On October 13, 2015, Southwest Gas Corporation ("Southwest Gas" or "Company") filed a notice of intent to implement a plan of reorganization that will result in a holding company structure.

3. Southwest Gas has requested that the Commission grant the Company authority to implement its plan to reorganize into a holding company structure and the transactions needed to do so, and grant the Company a waiver from Arizona Administrative Code ("A.A.C.") R14-2-804(B) and (C).

...

...

4. The rules applicable to this reorganization are A.A.C. R14-2-803, R14-2-804, and R14-2-805. Staff analysis of the notice of intent was conducted on the basis of the criteria contained in these rules.

5. Southwest Gas has sought approval for its restructuring plan with the Commission, as well as other regulatory authorities including the California Public Utilities Commission ("CPUC") and the Public Utilities Commission of Nevada, and requested a Private Letter Ruling from the federal Internal Revenue Service ("IRS"). CPUC approved Southwest's application in Decision 16-01-037 on January 28, 2016. The IRS issued its Private Letter Ruling on December 10, 2015. Southwest Gas' application is pending before the Nevada Commission.

6. The proposed reorganization would be accomplished through a reverse triangular merger. Reverse triangular mergers are common for utilities because they permit reorganization without changing the utility's internal corporate structure, operations, or assets. To complete the plan, three new corporations would be created, including a publicly traded holding company ("HoldCo"), an intermediate holding company ("Intermediate HoldCo") and a Merger Subsidiary. The proposed restructuring will occur in several steps, which are outlined below. (The names listed are for illustrative purposes only, and each will be California entities.)

- 1) Southwest Gas will form HoldCo.
- 2) HoldCo will form Merger Subsidiary.
- 3) Merger Subsidiary will merge with Southwest Gas, with Southwest Gas as the surviving legal entity and Merger Subsidiary ceasing to exist. In this merger, Southwest Gas shareholders will exchange their Southwest Gas shares for HoldCo shares. HoldCo will then own all of the outstanding shares of Southwest Gas.
- 4) HoldCo will then contribute Southwest Gas' common stock to Intermediate HoldCo, which will be the holding company for HoldCo's regulated entities.

Organization of Public Utility Holding Companies

7. R14-2-803 pertains to the organization of holding companies for public utilities. It requires that any utility or affiliate intending to organize a public utility holding company notify the Commission's Utilities Division in writing at least 120 days prior thereto, and includes eleven requirements that the requesting utility must satisfy in its notice of intent. The application was evaluated against these eleven requirements, and a discussion of each is itemized below.

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1 8. 1) *The names and business addresses of the proposed officers and directors of the holding company.*

2 9. Exhibit C of the application includes a list of the officers and directors of "HoldCo"
3 and "IntermediateHoldCo," and paragraph 24 states the business address of each person.

4 10. 2) *The business purposes for establishing or reorganizing the holding company.*

5 11. Southwest Gas states that the holding company structure will result in further
6 separation between Southwest Gas' utility functions and its non-regulated construction services
7 affiliates. The Company further states that the new corporate structure will give Southwest Gas
8 additional flexibility in financing as it allows both the utility and the holding company to access capital
9 markets, while also separating the utility side of the business from financial arrangements between the
10 holding company and non-regulated affiliates.

11 12. 3) *The proposed method of financing the holding company and the resultant capital structure.*

12 13. The application states on page 6, line 22, "no incremental financing will be required to
13 implement Southwest Gas' Plan, and the resultant consolidation holding company capital structure
14 will be the same as the Company's existing consolidated capital structure."

15 14. Current Southwest Gas shareholders will become shareholders of the common stock
16 of "HoldCo," which will initially be 100 percent funded with equity. The debt of the regulated
17 operations will remain with Southwest Gas and the debt of the non-regulated operations will remain
18 with the construction services entities. On a going-forward basis, it is expected that "HoldCo" will
19 consider different sources of capital including common stock, preferred equity and debt.

20 15. 4) *The resultant effect on the capital structure of the public utility.*

21 16. There will be no significant effect on the consolidated capital structure of Southwest
22 Gas. The pro forma capital structure for Southwest Gas is comprised of 52.6 percent equity and 47.4
23 percent long-term debt.

24 17. 5) *An organizational chart of the holding company that identifies all affiliates and their relationships*
25 *within the holding company.*

26 18. Exhibit A of the application includes organizational charts that detail both the existing
27 and proposed corporate structures. These charts include all of Southwest Gas' affiliates.

28 ...

1 19. *6) The proposed method for allocating federal and state income taxes to the subsidiaries of the holding*
2 *company.*

3 20. Federal and state income taxes will be calculated on a stand-alone basis for individual
4 entity financial statement and regulatory purposes.

5 21. *7) The anticipated changes in the utility's cost of service and cost of capital attributable to the*
6 *reorganization.*

7 22. Southwest Gas does not anticipate that its plan will result in any material change in the
8 utility's cost of service, its ability to access the capital markets, or the cost to obtain financing.

9 23. *8) A description of diversification plans of affiliates of the holding company.*

10 24. Southwest Gas provided detailed descriptions and diagrams of both its current and
11 proposed corporate structure that include all of its affiliates. The Company also files an annual report
12 on diversification plans as required by R14-2-805. Staff has reviewed current and previous filings
13 made by Southwest Gas under this rule, and has confirmed with the Company that the principal
14 business purposes of each affiliate would not be impacted by the reorganization plan.

15 25. *9) Copies of all relevant documents and filings with the United States Securities and Exchange*
16 *Commission ("SEC") and other federal or state agencies.*

17 26. Southwest Gas will furnish a Form 8-K to the SEC regarding the contemplated
18 holding company structure. Applications were also filed with the CPUC and the Public Utilities
19 Commission of Nevada with the instant notice. Southwest has provided the relevant documentation
20 to Staff.

21 27. *10) The contemplated annual and cumulative investment in each affiliate for the next five years, in*
22 *dollars and as a percentage of projected net utility plant, and an explanation of the reasons supporting the level of*
23 *investment and the reasons this level will not increase the risks of investment in the public utility.*

24 28. In its application, Southwest Gas states that under the proposed holding company
25 structure, the equity investment in Southwest Gas, measured as percent of net utility plant, would be
26 41 percent, and the equity investment in the unregulated construction services company would be 4.5
27 percent of net utility plant, as of June 30, 2015. Southwest Gas does not anticipate that any new
28 external funds issued by HoldCo over the next five-year period will be invested in the unregulated

1 intermediate construction services company, as the construction services companies would be self-
2 financing.

3 29. It further states that the equity investment in the unregulated construction services
4 companies will change based on its change in retained earnings (net income less dividends to HoldCo)
5 and the level of equity investment is expected to remain in the range of 4.5 to 5.5 percent as a percent
6 of net utility plant over the next five-year period. It is anticipated that HoldCo will continue to issue
7 new equity on a periodic basis to support the capital structure of Southwest Gas as it continues to
8 invest in utility plant, with the level of equity investment expected to remain in the range of 39 to 43
9 percent as a percent of net utility plant over the next five-year period. Given that the relative level of
10 investment in the utility and non-utility businesses is not anticipated to materially change, the level of
11 investment risk should not materially change.

12 30. As stated above, the rule requires providing this information both in dollars and as a
13 percentage of projected net utility plant. Southwest Gas has provided Staff with responses to this
14 question in dollar amounts. That information was not included here pursuant to the protective
15 agreement in this docket.

16 31. *11) An explanation of the manner in which the utility can assure that adequate capital will be*
17 *available for the construction of necessary new utility plant and for improvements in existing utility plant at no greater*
18 *cost than if the utility or its affiliate did not organize or reorganize a public utility holding company.*

19 32. Southwest Gas does not anticipate that any new external funds issued by HoldCo over
20 the next five-year period will be invested in the regulated intermediate construction services company,
21 as the construction services companies would be self-financing.

22 33. Southwest Gas expects no material impact to its ability to access the capital markets
23 and obtain funding at reasonable costs to finance its investment in utility plant due to reorganizing
24 into a holding company.

25 **Affiliated Interest Rules**

26 34. A.A.C. R14-2-804(B) provides that a utility will not consummate the following
27 transactions without prior approval by the Commission:

28 . . .

1. Obtain a financial interest in any affiliate not regulated by the Commission, or guarantee, or assume the liabilities of such affiliate;
2. Lend to any affiliate not regulated by the Commission, with the exception of short-term loans for a period less than 12 months in an amount less than \$100,000; or
3. Use utility funds to form a subsidiary or divest itself of any established subsidiary.

35. R14-2-804(C) states that the Commission will review the transactions set forth in subsection 804(B) to determine if the transactions would impair the financial status of the public utility, otherwise prevent it from attracting capital at fair and reasonable terms, or impair the ability of the public utility to provide safe, reasonable and adequate service.

36. The restructuring plan that Southwest Gas has proposed involves the creation of new entities that will initially be subsidiaries. It also will result in Southwest Gas divesting its interest in non-regulated construction services affiliates, which will then be distributed to the new holding company. Southwest Gas has requested a waiver from 804(B) and (C) because it believes seeking preapproval of these steps would be redundant, as a request for preapproval of these steps is implicit in the notice of intent.

37. Staff agrees that such requests for preapproval would be redundant. The notice of intent application encapsulates the entirety of the reorganization transaction, and therefore additional requests for preapproval as specified by 804(B) and (C) are unnecessary.

38. A.A.C. R14-2-805 requires public utilities to submit annual reports detailing diversification plans and activities. As discussed above, Southwest has submitted such plans for both the current year and in previous years. In its application, it states that it will continue to do so under the proposed holding company structure.

Conclusions and Recommendations

39. Staff recommends that the Commission grant Southwest Gas the authority to implement its plan to reorganize into a holding company structure, including all the transactions needed to do so, and further recommends granting the Company a waiver from R14-2-804(B) and (C).

40. Southwest Gas has met the requirements of R14-2-803. The Company's notice of intent satisfies each of the eleven requirements specified by the rule. The holding company structure will both increase the separation between Southwest Gas' regulated and non-regulated entities and

1 provide Southwest Gas with greater flexibility in financing, which are both legitimate business
2 purposes. The additional separation the holding company structure provides will also help to insulate
3 the regulated portions of Southwest's business from liability, which is in the ratepayer's interest. The
4 reorganization will not have any effect on Southwest Gas' operations, and the costs of restructuring
5 will be funded by shareholders, not ratepayers.

6 41. Staff has recommended that Southwest Gas be granted a waiver for R14-2-804(B) and
7 (C). Requesting preapproval for the individual steps needed to implement the plan would be
8 redundant. Further, the Southwest has already satisfied the required criteria under 804(C) in that the
9 plan would not impair the financial status of the utility, prevent it from attracting capital, or impair its
10 ability to provide safe, reasonable, and adequate service.

11 42. Finally, the Company has fulfilled the requirements of R14-2-805 this year and in
12 previous years. The Company reports that it will continue to comply with the rule under the proposed
13 holding company structure.

14 CONCLUSIONS OF LAW

15 1. Southwest Gas Corporation is an Arizona public service corporation within the
16 meaning of Article XV, Section 2, of the Arizona Constitution.

17 2. The Commission has jurisdiction over Southwest Gas Corporation and over the
18 subject matter of the application.

19 3. The Commission, having reviewed the filing and Staff's Memorandum dated March
20 29, 2016, concludes that it is in the public interest to grant Southwest Gas the authority to implement
21 its plan to reorganize into a holding company structure, including all the transactions needed to do so,
22 and further grants the Company a waiver from R14-2-804(B) and(C).

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ORDER

IT IS THEREFORE ORDERED that Southwest Gas Corporation's proposed plan of reorganization that will result in a holding company structure, including all transactions needed to do so, is approved.

IT IS FURTHER ORDERED that Southwest Gas Corporation is granted a waiver from A.A.C R14-2-804(B) and (C) for the purposes of implementing its plan of reorganization.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION



CHAIRMAN



COMMISSIONER

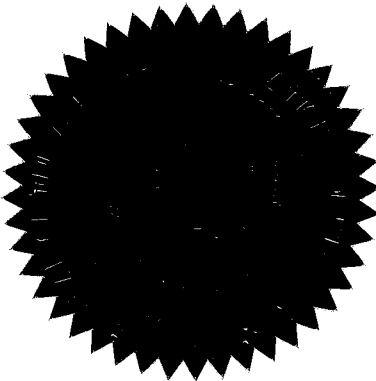


COMMISSIONER

COMMISSIONER



COMMISSIONER



IN WITNESS WHEREOF, I, JODI JERICH, Executive Director of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this 16th day of May, 2016.


JODI JERICH
EXECUTIVE DIRECTORDISSENT: No. Fouse

DISSENT: _____

TMB:EAH:red/RRM

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